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August 25, 2006

J M H  
Jay M. Sanders, Patent Attorney

TERMINAL DISCLAIMER  
Patent Application  
Examining Group 1653  
Docket No. MA-43CDF2D4  
Serial No. 10/825,751

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : Robert A. Wax  
Art Unit : 1653  
Applicant(s) : Jewel Payne, August J. Sick  
Serial No. : 10/825,751  
Conf. No. : 8529  
Filed : April 16, 2004  
For : Novel *Bacillus thuringiensis* Isolate Active Against Lepidopteran Pests, and  
Genes Encoding Novel Lepidopteran-Active Toxins

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER

Sir:

Petitioner, Mycogen Corporation, is the owner of the entire interest in and to the instant application. Petitioner hereby disclaims, except as provided below, the terminal part of any patent granted on the above-identified application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer filed prior to grant, of U.S. Patent Nos. 5,188,960 and 6,737,273, and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent be the same as the legal title to the above-referenced patents, this agreement to run with any patent granted on the above-identified application and to be binding on the grantee, its successors or assigns.

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Docket No. MA-43CDF2D4

Serial No. 10/825,751

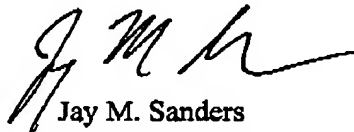
In making the above disclaimer, petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of the above-listed application in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, if found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer filed prior to the grant of the patent.

The undersigned has reviewed all the evidentiary documents accompanying or referred to in the instant Terminal Disclaimer and it is certified that, to the best of the undersigned's knowledge and belief, title is in the Petitioner identified above.

The undersigned is the attorney of record.

I authorize you to charge the amount of \$110.00 to Deposit Account No. 19-0065.

Respectfully submitted,



Jay M. Sanders  
Patent Attorney

Registration No. 39,355

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Gainesville, FL 32614-2950

JMS/ehm

Attachment: Preliminary Amendment

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